

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PAINTERS DISTRICT COUNCIL NO. 58, et)	
al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	Case No. 4:21 CV 1225
JC’S DIAMOND SHINE CLEANING)	
SERVICES, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs’ Motion for Default Order to Compel an Accounting. Doc. [8]. Plaintiffs brings this action pursuant to Section 301 of the Labor Management Relations Act of 1947 (“LMRA”), as amended, 29 U.S.C. § 185, and Section 502 of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. § 1132. Plaintiffs filed this case on October 13, 2021. Doc. [1]. Defendants were served with the summons and complaint on November 7, 2021, Doc. [5], and to date, have not entered an appearance or filed any other responsive pleading. The Clerk of Court entered default against Defendants on December 20, 2021, Doc. [9], consistent with Fed. R. Civ. P. 55(a), and Plaintiffs subsequently moved for a default order to compel an accounting. Doc. [8]. Defendants have neither responded to the entry of default nor Plaintiffs’ motion.

Once default has been entered against a defendant, “the allegations of the complaint, except as to the amount of damages[,] are taken as true.” *Greater St. Louis Constr. Laborers Welfare Fund v. Gateway Constr. Servs.*, No. 4:20-cv-00808-SEP, 2020 WL 6483944, at *1

(E.D. Mo. Nov. 4, 2020) (quoting *Greater St. Louis Constr. Laborers Welfare Fund v. AbatePro, Inc.*, 4:17-cv-02812-AGF, 2018 WL 5849980, at *1 (E.D. Mo. Sept. 6, 2018)). “With respect to damages in an action for delinquent fringe benefits, pursuant to 29 U.S.C. § 1132(g)(2), a plaintiff is entitled to recover all of the principal contributions owed, plus interest, liquidated damages . . . , attorneys’ fees, and costs.” *Id.* at *2.

Defendant JC’s Diamond Shine Cleaning Services LLC, d/b/a JC’s Drywall (“JC’s Drywall”) is a party to a collective bargaining agreement with Plaintiff Painters District Council No. 58 (“Union”). Under the terms of the collective bargaining agreement, JC’s Drywall is required to pay contributions to the Union funds, file weekly contribution report forms, and to remit dues to the Union. JC’s Drywall has failed to submit its reports, dues, or contributions due to the Union. Defendant Maria Raygoza executed a Guaranty of Payment of Wages, Dues Remissions, Fringe Benefit Contributions and Other Miscellaneous Payments. Doc. [8-2] at 3.

JC’s Drywall is delinquent in submitting reports, contributions, and dues remissions. Under the terms of the collective bargaining agreement, the Union is authorized to conduct an examination of JC’s Drywall’s financial records. Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, Plaintiffs have filed a motion in this Court for an order compelling JC’s Drywall to submit to a payroll audit of its financial books and records covering the time period from April 2, 2021 to date, to determine the amounts allegedly owed. Doc. [8]. Absent this accounting, Plaintiffs are unable to determine the precise damages owed.

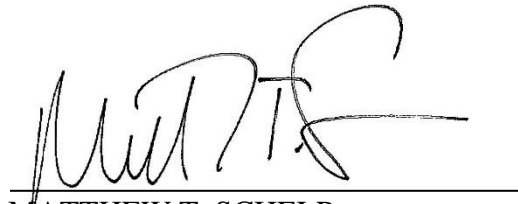
Accordingly,

IT IS HEREBY ORDERED that Plaintiffs’ Motion for Default Order to Compel an Accounting, Doc. [8], is **GRANTED**. Defendants are to submit to a payroll audit of their

financial books and records covering the time period from April 2, 2021, to date, within thirty (30) days of this Court's order.

IT IS FURTHER ORDER the Court reserves jurisdiction to make such further orders and grant such additional relief, including but not limited to the entry of partial and final judgments, as it deems appropriate.

Dated this 25th day of January, 2022

A handwritten signature in black ink, appearing to read 'M. T. Schelp', is written over a horizontal line.

MATTHEW T. SCHELP

UNITED STATES DISTRICT COURT